

**SHOREVIEW PLANNING COMMISSION MEETING**  
**April 24, 2012**

**CALL TO ORDER**

Chair Solomonson called the meeting of the April 24, 2012 Shoreview Planning Commission meeting to order at 7:00 p.m.

**ROLL CALL**

The following members were present: Chair Solomonson; Commissioners Ferrington, McCool, Proud, Schumer, Thompson and Wenner.

**APPROVAL OF AGENDA**

**MOTION:** by Commissioner Schumer, seconded by Commissioner Ferrington to approve the April 24, 2012 agenda as submitted.

**VOTE:**                                      **Ayes - 7**                                      **Nays - 0**

**APPROVAL OF MINUTES**

Commissioner Schumer noted two corrections to the March 27, 2012 meeting minutes: 1) date on first page should be March 27, 2012; and 2) Commissioner Wenner's name inserted on first page where Chair Solomonson noted his arrival.

**MOTION:** by Commissioner Schumer, seconded Commissioner Wenner to approve the March 27, 2012 Planning Commission minutes as corrected.

**VOTE:**                                      **Ayes - 7**                                      **Nays - 0**

**REPORT ON COUNCIL ACTIONS**

City Planner Kathleen Nordine reported that the City Council approved the Conditional Use Permit for David Nelson and Claire Inseland at its April 2, 2012 meeting, as recommended by the Planning Commission.

## **OLD BUSINESS**

### **CONDITIONAL USE PERMIT**

**FILE NO:** 2445-12-8  
**APPLICANT:** Automotive Ventures Group, Inc. / Karen Properties, LL  
**LOCATION:** 3854 Lexington Ave North

#### **Presentation by City Planner Kathleen Nordine**

The proposal is to amend the company's permit to allow limited automotive sales on the property. The reason is to be able to address vehicle forfeiture by customers who, for economic reasons, cannot pay for car repairs. The station would purchase the vehicle from the owner and resell it. The maximum number of vehicles for sale would be five. Vehicles for sale would be located in an existing parking lot adjacent to Lexington Avenue and I-694.

The Planning Commission tabled this application at its last meeting and requested further information related to signage, scope of vehicles to be offered for sale, state licensing requirements, current sales data and the proposed parking location for these vehicles.

The applicant has responded that signage would be removable window signage with no painting, pennants, or banners. Staff would require that signs be limited in size to a maximum of 11" x 17". Although state licensing requires a minimum of five vehicles for sale, the applicant anticipates not more than three vehicles would be for sale at any one time based on past history. The vehicles that would be offered for sale would be ones that were brought in for repairs that the owner could not pay for. No commercial vehicles would be sold.

The applicant would apply for a Used Vehicle Dealers License. The applicant has the required liability insurance but would also be required to submit a \$50,000 bond. Within the past year, four vehicles have been offered for sale. In the past month there have been two. Vehicles on display for sale are typically on-site for from one to three months.

The City's Development Code allows automotive sales in the C-2, General Commercial District, the zoning designation of the subject property. A Conditional Use Permit may be granted if the use is permitted in the zoning district and standards and criteria of the Code are met. There is nothing specific in the City's Code that establishes criteria for automotive dealerships.

The proposal is in compliance with the Comprehensive Plan and compatible with the neighborhood. No additional improvements are needed for this proposed use. Parking capacity on the property can accommodate the proposed additional use. Staff is recommending that the Planning Commission recommend approval to the City Council with the conditions listed in the staff report that include prohibition of use of the reader board sign for automotive sales and reimbursement to the City for any enforcement issues.

Commissioner Ferrington asked what provision is made for the Conditional Use Permit to be revoked if there are violations. Ms. Nordine explained that the permit can be revoked if there are violations to the conditions placed upon the permit. A violation not related to automotive sales would not be a basis to revoke this Conditional Use Permit. She noted that there are several Conditional Use Permits on this site that will be consolidated to the extent possible when this is presented to the City Council.

Commissioner Proud agreed with the consolidation and stated that because of noncompliance with the reader board and other signage, he would like to see leverage for City enforcement within the conditions of the Conditional Use Permit. Condition No. 11 does not cover all City enforcement costs. City Attorney Filla stated that if the applicant is in violation of City Code, the City can pursue enforcement. Costs can be requested from the court.

Commissioner Proud responded that although he has not represented the City, in other instances he has not been successful in obtaining costs through the court, unless it was in a written contract. That is why he does not believe the City had the necessary leverage for enforcement. City Attorney Filla stated that the Conditional Use Permit is for the use, not the entire site. Commissioner Proud requested that the enforcement provision be written to cover the entire site.

Commissioner McCool suggested a condition that would include employees not parking in the spaces for auto sales. Ms. Nordine stated that staff does not believe there is a parking issue on the site, which is why such a condition was not included.

Commissioner Ferrington stated that her concern is that it will take significant enforcement to insure this site remains in compliance. She would like to see language used in future applications that builds in a way for the City to recoup enforcement costs.

Commissioner Wenner referred to condition No. 8, "Vehicles offered for sale on this property shall include only those acquired by the service station operating on this property. These vehicles shall include only those forfeited or acquired from service station customers. Vehicles from other service stations, including those owned by the same operator, shall not be offered for sale on this property." He suggested a change to the first sentence that would read, "Vehicles offered for sale on this property shall be limited to those vehicles acquired...". This would prohibit vehicles brought in from other locations to be sold from this site.

Commissioner Schumer noted that the third sentence in condition No. 8 addresses that concern.

Commissioner Solomonson noted that the Sinclair station across the street is owned by the applicant and vehicles can be sold from that site.

Commissioner Proud asked if there are restrictions on the signage for selling vehicles in regard to color, lighting, whether the reader board can be used. Ms. Nordine stated that no lighting is allowed, nor use of the reader board. The signage would be paper. Color is not addressed.

**Mr. Mark Mclean**, 3850 Lexington Avenue N., stated that the purpose of this application is not to become a used car lot. The purpose is to be able to have a few vehicles for sale as the need

arises. It can be done subtly and as a service to the City. It is a growing customer demand from people who cannot afford their car repairs. Also, people ask if he knows of a good used car. This use needs to be part of his business plan. In the year he has been on this property, no vehicles have been sold from the Sinclair site. The state requirement is to have five stalls for cars for sale. He does not anticipate more than two or three at a time. He is not required to have five vehicles in those required five stalls. Having a state license makes it easier for title work, administration and the fact that detailed must be kept to comply with the license. The license also assures customers. A license would also require that a sale would be subject to the No Lemon Law. Signs are planned, but it will not be a big part of the business. Advertising can also be done on the internet. The stalls can be designated to keep traffic flow efficient. Keeping the sales subtle will not impact the new businesses coming into the area. The restrictions proposed for the Conditional Use Permit are reasonable.

Commissioner Proud thanked **Mr. Mclean** for his forthright answers to the Commission's questions. He asked if any sales would be on consignment and suggested black and white signage with no lights or digital. **Mr. Mclean** stated that he will use professional signs. There will be no consignment sales.

Commissioner McCool asked if there is a need for the ability to sell vehicles on both the Sinclair site and the subject site. **Mr. Mclean** stated that he is willing to rescind his ability to sell cars at the Sinclair site. It would not be feasible to only sell cars at the Sinclair site because of the volume difference between the two sites.

Chair Solomonson opened the discussion to public comment. There was none.

Chair Solomonson stated that with such tight restrictions for this Conditional Use Permit, his concern is allowing this additional use. There is a lot going on commercially in this area. He is not in favor of changing the Conditional Use Permit.

Commissioner McCool noted that the Conditional Use Permit granted in 1983 requires reimbursement to the City for all enforcement costs. This condition would still be in place, and he agrees with staff that all of the Conditional Use Permits granted for the site should be consolidated with reimbursement subject to all conditions of all the Conditional Use Permits. This is a use that works. The conditions placed on the use will keep it low volume and work for the concerns expressed by the Commission. This is helping a business out that is making a reasonable request.

Commissioner Schumer agreed stating that the additional use is simply an expansion of the existing business, not something new. It is a natural progression that will be low volume. What is proposed is part of doing business, and he supports the application.

Commissioner Ferrington stated that she is not comfortable bringing used car sales to the City. However, the use is allowed regardless of personal feeling. City Attorney Filla stated that the use can be regulated but not prohibited.

Chair Solomonson asked how the use was prohibited in the first place. City Attorney Filla responded that he would have to look to see if, at an earlier time, the use was prohibited by Code.

Commissioner Proud stated his support with his suggested changes to condition Nos. 6 and 8.

Commissioner Wenner agreed and stated that the applicant has explained how his industry has changed. These situations are presented to him, and he is trying to provide a service. The Code allows this use and the City should help to solve this issue.

Commissioner Thompson stated that she would support the application. Her concern of placement of parked cars and traffic flow have been addressed.

Chair Solomonson stated that this would set a precedent for increased car sales in the zoned C-2 areas in the City. Also, there is nothing to explain why car sales were prohibited on this site. He would like to see the Code revisited in this instance.

**MOTION:** by Commissioner Schumer, seconded by Commissioner McCool to recommend the City Council approve the Conditional Use Permit for Automotive Ventures, Inc./Karen Properties, LLC allowing automobile sales on the property at 3854 Lexington Avenue. Said approval is subject to the following conditions with one change in condition No. 6, line 2, to read that window signage shall be non-electronic and not lighted and shall not exceed the size of 11" x 17" in area; and approval is based on the four findings listed.

- 1) This amendment permits automobile sales on the property provided the maximum number of vehicles for sale at any one time does not exceed 5.
- 2) Condition No. 4 in Conditional Use Permit 971-83-22 which states "no vehicles may be offered for sale on the property" is rescinded.
- 3) Condition No. 4 in Conditional Use Permit 99-18 is hereby modified as follows. The parking area shall be used for employee parking, the parking of customer vehicles currently being serviced and vehicle sales as conditioned with this permit. Exterior storage is not permitted on this property. All vehicles shall be licensed and operable. No vehicles, with the exception of those for sale, shall be stored on the site for more than 30 consecutive days.
- 4) Automobile vehicles for sale shall be limited to passenger vehicles only. The sale of commercial vehicles is prohibited.
- 5) Automobile vehicles for sale shall be displayed on the property in the parking areas as identified in the submitted site plan.
- 6) Additional signage advertising car sales is not permitted on the property, with the exception of window signage displayed in the vehicle being offered for sale. Said window signage shall not exceed 11" x 17" in area. The existing message center sign shall not be used to advertise vehicles for sale.
- 7) Third party sales are prohibited.
- 8) Vehicles offered for sale on this property shall include only those acquired by the service station operating on this property. These vehicles shall include only those forfeited or acquired from service station customers. Vehicles from other service stations, including those owned by the same operator, shall not be offered for sale on this property.

- 9) Records shall be made available at the City's request documenting the acquisition and sale of vehicles. Said records shall include, but may not be limited to: reason for forfeiture, acquisition method, date of acquisition from the seller, and the date sold by the dealership,
- 10) The Permit holder must have a valid Minnesota motor vehicle license to sell cars on this property.
- 11) Permit holder shall reimburse the City for all costs incurred, including legal fees, in order to enforce the terms of this conditional use permit.

This approval is based on the following findings:

- 1) The use is in harmony with the general purposes and intent of the Development Ordinance.
- 2) The use is in harmony with the policies of the Comprehensive Guide Plan.
- 3) Certain conditions as detailed in the Development Ordinance exist.
- 4) The structure and/or land use conform to the Land Use Chapter of the Comprehensive Guide Plan and are compatible with the existing neighborhood.

#### DISCUSSION:

Commissioner Proud offered an amendment to the end of condition No. 8 that would read, "These vehicles shall include only those forfeited or acquired from service station customers in satisfaction of unpaid repair charges."

Commissioner McCool noted the situation where someone came in and could not afford the repairs. The station then bought the car, made the repairs and sold it. In that instance, there would have not been a satisfaction.

Commissioner Schumer stated that he cannot support the amendment because of the example described by Commissioner McCool.

Commissioner Proud stated that he would not want to support instances with vehicles brought in to be sold before the station makes the repair. That is operation similar to a used car lot. Commissioner Wenner seconded the amendment.

Commissioner McCool asked **Mr. Mclean's** reaction to the amendment. **Mr. Mclean** stated that unpaid repair does not cover the charge for diagnostics on the car. The amendment complicates the matter. Commissioner McCool stated that he would vote against the amendment because the application is for cars that are brought in for repairs but cannot afford the work. He also does not want to see this turned into an open sales site, but the amendment stipulating just satisfaction of charges does not give the business what it needs.

#### VOTE ON FIRST AMENDMENT:

Ayes - 2 (Proud, Wenner)      Nays - 5 (Ferrington, McCool, Schumer, Thompson, Solomonson)

The amendment failed.

Commissioner McCool offered an amendment to the second sentence of condition No. 8 to read, "These vehicles shall include only those forfeited or acquired from customers whose vehicles are at the service station for repairs." Commission Ferrington seconded the amendment.

**VOTE ON SECOND AMENDMENT:**

Ayes - 7      Nays - 0

The amendment was adopted.

**VOTE ON MOTION:**

Ayes - 6      Nays - 1 (Solomonson)

**NEW BUSINESS**

**VARIANCE**

**FILE:**                      **2414-11-07**  
**APPLICANT:**          **James Gruber**  
**LOCATION:**              **3289 Emmert Street**

Presentation by City Planner Kathleen Nordine

The applicant received a variance last year to reduce the front yard setback for Parcel 1 of a subdivision for construction of a future new home. The front yard setback was reduced to 40 feet. The setbacks are based on adjacent properties, which created difficulty for the setback on the subject property. The subdivision has been recorded with Ramey County, as has the variance. The subject property is now for sale. The applicant seeks an extension of the variance for one year to April 26, 2013, subject to the conditions of the variance approval remaining in effect.

Staff is recommending the extension be approved.

**MOTION:**      by Commissioner Schumer, seconded by Commissioner Wenner to extend the variance approved for Parcel 1 reducing the front yard setback for a future home on the property to 40 feet. The subdivision and Resolution have been recorded at Ramsey County and the property is being marketed for sale. Said extension is for a one-year period to April 26, 2013. Conditions attached to the variance approval shall remain in effect.

**VOTE:**                      Ayes - 7                      Nays - 0

**PUBLIC HEARING - PRELIMINARY PLAT/ COMPREHENSIVE PLAN  
AMENDMENT REZONING/ PLANNED UNIT DEVELOPMENT - DEVELOPMENT  
STAGE**

**FILE NO:** 2446-12-9  
**APPLICANT:** LAKEVIEW TERRACE, LLC  
**LOCATION:** 3588 OWASSO STREET

Commissioner Proud recused himself from consideration of this matter.

**Presentation by City Planner Kathleen Nordine**

This application is to demolish a 13,000 square foot retail center in order to build a high density apartment complex consisting of 104 units. The project includes realigning Owasso Street with County Road E at the Victoria Street intersection. Owasso Street would be relocated to the north to align with the west leg of County Road E at Victoria. This will involve relocation of public utilities and replacement of a sidewalk. A new trail will be added along the west leg of County Road E. There will also be signal improvements and medians added. Traffic is anticipated to be somewhat higher by 143 trips per day than the Midland Plaza retail center, but the distribution pattern will be different with a residential use. The road improvements are intended to improve traffic flow in this area.

Land uses abutting this property include low density residential to the south, a church and park to the west, and railroad and business park to the north. The proposed use should not adversely impact surrounding land uses. The wetland pond on the site provides separation from the low density, single-family residential neighborhood to the south.

This redevelopment would replace an underutilized property with housing that supports the City's goals by expanding housing choices and provide a rental option not currently available in the City. This good reinvestment of developed property that the City encourages.

Four applications have been submitted:

- 1) Comprehensive Plan Amendment to change Commercial zoning to RH, High Density Residential of 8 to 20 units per acre. The proposed land use (RH) Adjacent Midland Terrace is zoned RH. This proposed density for this development is 16.6 units per acre.
- 2) The preliminary plat would be created to divide the property into two parcels--one for the apartment building and one for an adjacent parking area for the apartment building. The dedication for Owasso Street right-of-way would also be platted.
- 3) Rezoning from C1, Retail Service and R3, Multi-family Residential to a PUD, Planned Unit Development. Flexibility is requested for setback requirements from Owasso Street and Victoria Street, height of the building, and the number of parking lot stalls and setback for the parking lot.
- 4) PUD redevelopment of the property with a 104 unit apartment building.



At the Planning Commission meeting on February 28, 2012, concern was expressed about setbacks, the height of the building and water quality in the wetland area. The building placement is a result of the width of Owasso Street, which is wider than the developer thought. This has shifted the building further south closer to the wetland and reduced the footprint of the building further reducing the number of units to 104. The proposed building setbacks would be 73.49 feet from Owasso Street, 66.21 feet from Victoria Street and 18.2 feet from the wetland. The wetland setback does meet the 16.5 foot required buffer.

The permitted height is 35 feet; the developer proposes 78.5 feet. However, the building height can be exceeded when there is no impact to firefighting capabilities, and the Lake Johanna Fire Department has reviewed the plan and indicated no concerns. Further, increased height can be allowed when for every foot of increased height, there is an additional foot of increased setback. Deviations from the setback requirements are proposed

The visual impact of the building to the single-family neighborhood is mitigated by the wetland/pond separation. A reduction in height would not have a significant effect. The distance of the structure from the neighborhood reduces the impact of the actual height.

Parking stalls proposed are 167, or 1.7 stalls per unit. City code requires 2.5 stalls per unit. The number of parking stalls may be reduced when shared parking is available or proof of parking is shown. As the building is adjacent to Midland Terrace, that parking lot can accommodate any overflow parking needs.

Storm water management for the site includes an underground treatment chamber for water quality before discharge into the wetland/pond. A filtration basin will treat runoff from the southwest part of the building before it is discharged into the wetland. Roof drainage is directed into the wetland. The developer is working with a consultant to further identify ways to improve water quality in the pond area.

The Environmental Quality Committee (EQC) reviewed the application at its April 23, 2012 meeting and supports the water quality work proposed and a shoreland vegetative buffer. The EQC requested collection of roof water runoff for reuse.

Notices were sent to properties beyond 350 feet, and a development sign is posted on the property. Comments received indicate some support for the road realignment. However, there is opposition to the density of development, the height of the building and its visual impact. Residents state that this development is not compatible with the neighborhood and expressed further concerns about traffic and water quality.

Staff believes the proposal supports City goals and policies related to land use, housing and redevelopment. The change in land use will not significantly impact adjacent land uses. The visual impact of the structure is mitigated by the wetland/pond, the distance from the low density residential neighborhood, and architectural design. Realignment of the road will improve traffic flow and safety. Staff is recommending that the Planning Commission recommend approval to the City Council, subject to the conditions and findings listed in the staff report. Staff has requested the developer to work further with the City on landscaping to soften the visual impact

of the building and tree replacement along Owasso Street, as well as consider the recommendations of the EQC.

### **Commission Discussion**

Commissioner Wenner asked if the roof is white. Ms. Nordine explained that the roof is a mansard style which shields the flat roof on the structure. The flat roof would have a white membrane to reflect the sun rather than absorbing. This cannot be seen since it is behind the mansard roof.

Commissioner Ferrington noted the median planned on Victoria near the intersection with Owasso Street. She asked if there would be a cross walk there, so that pedestrians, especially children going to school, could cross one direction of traffic at a time, since the street will be wider and it is a busy intersection. However, if it is not close enough to the intersection signal lights, that may not be possible. Ms. Nordine stated that she will discuss the issue further with the Public Works Director.

Commissioner McCool stated that provided parking would be 147 stalls fewer than what are required. Although shared parking is shown with 51 additional spaces, that still does not reach the number required. Ms. Nordine responded that she looks at the apartment complex as a whole, which has about 875 stalls.

Chair Solomonson asked if there would be a problem with snow sliding from the roof. Ms. Nordine stated that the roof is a standard seam and can be designed with snow breaks.

Chair Solomonson called a five-minute recess after which he reconvened the meeting.

City Attorney Filla stated that the required notices have been published and provided for this public hearing.

Chair Solomonson declared the public hearing open.

**Mrs. Murt Seltz**, Owasso Heights Road, stated there are a lot of children in the neighborhood. The building will be an eyesore and a big six-story building is like fitting a square peg into a round hole. It is too big. She is not sure if tax money is being used. She does not believe that “Building it they will come.” Big projects get built that do not work out as planned, such as Galtier Plaza and River Place. Luxury apartments and trains do not belong in the same sentence. People who can afford luxury apartments will have choices and will not want to hear trains. In the last week, two trains went through backing up traffic during school dropoff time. On many levels this plan does not work. The last thing she would want is a huge economic dinosaur on that corner that compromises safety.

**Ms. Carrie Lemay**, 530 Lake Cove Court, asked if the school district has addressed the capacity of the school and the traffic at that corner. As a parent of children in Island Lake School, it is bursting at the seams. She is very concerned about the added number of children that may attend that school. The school is tearing down walls and trying to find new spaces to be made into

classrooms because it is at capacity. Also, she asked if the gathering space planned in the landscaping would become a smoking lounge, if there is no smoking in the building. That area would be located right across the street from the elementary school where children would observe what is going on. She would like to know the purpose of that space.

**Ms. Patricia Gunderson**, 390 Harriet Avenue, agreed with what the first speaker said. If the roof shown is not accurate, is something else not accurate. The six-story building does not fit in the neighborhood. She is also concerned about traffic.

**Mr. Rolly Seltz**, stated that he is a volunteer in the Island Lake School. At 8:15 and 8:30, when children arrive traffic is already a mess with little children climbing out of cars with one and two back packs. This would add to the problem of traffic and children. In the afternoon, it is even worse.

**Mr. Noah Bly**, Urban Works Architecture, introduced the development team, Max Segler and Alan Menning from Tycon and Civil Engineer Dan Tilson from G-Cubed. He stated that the height is intrinsic to making this project work. A larger setback has been created from Victoria with a buffer area where there will be a gazebo and area for grills. It is not perceived as an area for smokers. The building will be smoke free. The building was also moved further south. This allowed a green buffer between the flat lot parking and the building, which will make the units on that side more attractive. There is also a buffer between the new sidewalk and the road. Native plantings will be used on the south side. The underground parking will be structured so that fire trucks can use the space on top. Every unit has a screened porch. The storm water will be treated before reaching Lake Shoreview. The only water that will be directly discharged into the lake is clean water from the roof.

Although those who spoke at this meeting are opposed to the building, there is also community support, as some have asked to be on the waiting list to get into the building.

Commissioner Ferrington asked the reason it is necessary to have a building of six stories. **Mr. Bly** stated that it is hard to convey the quality of the building on the exterior and interior. To make it work economically, it is a challenge to make it work without a certain scale. It has been reduced from 120 units to 104 units. If the building were five levels with wood construction, it would be almost the same height. The design of the roof will mitigate some of the impact.

Commissioner Thompson asked about the adequacy of the parking and market demand.

**Mr. Bly** responded that the parking is based on covering resident needs. There is a substantial amount of enclosed parking, which is what the market is interested in. The building has 138 bedrooms. The ratio used is 1.27 stalls per bedroom and 1.7 stalls per unit. Chances are the building needs fewer than 1.7. But the developer has chosen to increase that number to make sure to meet resident needs. There 124 enclosed stalls, which is more than the number of units plus the excess stalls and plus there are excess stalls around them. As for demand, there is low vacancy at this time for multi-family because there has been so little construction. There is a seismic shift in how people rent. Money that could be used to buy a house will be used for rent for a product of this type.

Chair Solomonson asked if there are common areas in the building and if there is adequate parking for a big party. He also asked for further information about the roof. **Mr. Bly** stated that there are plenty of stalls for those coming as guests plus many stalls in Midland. The roof is a mansard roof with standard metal seam. The flat portion is on the concrete deck behind the mansard roof. As for ice and snow, the roof will have pleats to stop snow and ice. There will be a canopy over the entrance so there would be no chance of snow falling on people.

Chair Solomonson asked Mr. Bly to address traffic issues. **Mr. Bly** stated that a traffic study was done. Ms. Nordine added that traffic generation for the existing land uses as well as the proposed development has been taken into consideration with the redesign of the roadways.

Commissioner McCool asked if the adjacent parking lot consists of 51 spaces. **Mr. Bly** answered that it will be reconfigured to have 51 spaces and will serve the adjacent building as well as serve as overflow to the proposed building. There is also parking around the adjacent building in addition to that lot.

Commissioner Ferrington asked if the EQC recommendations will be considered. **Mr. Bly** stated that they have just been received. They will certainly be studied and considered, but he does not know if they will be implemented.

**Mr. Bly** stated that the funding for the project is private. Part of the financing is with tax increment financing, which means taxes are used to pay for part of the development costs.

**Ms. Patricia Gunderson**, 390 Harriet Avenue, expressed concern about the occupancy rate. She asked if there has been a study in Shoreview of the need for this type of housing. What is the demand for rental? What is the occupancy rate for rental now? What will the rent be? Also, she is concerned that it will become low income housing because she is not sure people will want a luxury apartment across from two schools and a train with a busy intersection. There is enough low income housing. She does not agree that there is enough parking and still does not support a six-story building.

**Mrs. Murt Seltz**, Owasso Heights Road, asked who owns the pond and expressed her concern for water quality. For luxury apartments, she would guess there may be two vehicles per apartment so she is very concerned about parking. She does not understand why the building has to be so tall to be profitable. If so many variances are needed, perhaps this is not the best plan for this property. It may be too big and too high. The school is bulging at the seams. The principal has concern about how many more students can be absorbed. There are often 200 cars in passing trains, s long train.

**Mr. Bly** responded that Midland Terrace is currently at 98% occupancy. With turnover, that is approaching the maximum. There is a significant demand for rental units. The rental rates will be higher, perhaps \$1300 for a one bedroom apartment, which is not affordable housing. He does not have estimates on how many children there might be.

Ms. Nordine explained that lot lines to extend into the wetland area. Tycon Companies is the underlying owner of wetland/pond. The City uses it to manage stormwater runoff from the adjacent roadways.

Commissioner Ferrington asked the repercussions if this plan were not approved. Is the road linked to the development. Ms. Nordine stated that without the road realignment, the property cannot be redeveloped.

Commissioner Wenner asked if there will be recreational use of the water. **Mr. Bly** stated that the preference is for recreation. At this time, a dock is not in the plans because of the difficulty of handicapped access. The developer is interested, but a plan has not been developed.

MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to close the public hearing.

VOTE: Ayes - 7 Nays - 0

Commissioner McCool asked for further information about the tax increment financing (TIF) of this project. Ms. Nordine stated that she is not familiar with those details. The developer has been working with Community Development staff. An application for TIF assistance has been submitted, which will be considered by the City Council at the June 18th meeting.

Commissioner Wenner asked if there have been discussions with the school district regarding traffic and whether it would be possible for traffic to get to the school on the other side of it. Ms. Nordine stated that discussions have occurred regarding the roadway improvements. There has not been specific discussions about the apartment land use. There are constraints to the Island Lake School site in regard to traffic flow, recreation needs and what can be done to resolve issues with the dropoff and pickup of children at that school. The back of the school is used by buses. That has eased the issue, but she does not know if there could be access in back for parents.

Chair Solomonson stated that the benefits of this project include a housing opportunity Shoreview does not have, a road realignment, storm water system, but the negative is the height of the building. With a lake on one side, a railroad and 500 feet from the nearest residential area, this is a unique area. He still has a concern about parking, but he likes where the building has been moved. The benefits outweigh the negative of the building height. He will support the proposal as presented.

Commissioner Ferrington stated that she does not want the City to lose the money captured for the road realignment, which will be a big improvement. The changes made have improved the development. She can support the proposal, even though she also does not like the height of the building.

Commissioner McCool stated that there are many positives and it does bring something that Shoreview does not have. He still has concerns about parking and is not satisfied that parking can be solved by pushing it into Midland Terrace because there is no legal right for that use.

Using Midland Terrace could be shut off at any time. The adjacent building will be losing parking. It is not excess parking but will create a problem for that building. The scale is needed for the quality. TIF will subsidize the cost in the long term. The City is spending money to be recaptured with tax increment. There is too much building on this site. Density is figured on a 6-acre site that is two-thirds water. The building far exceeds height limitations, and the development is 100 parking spaces short. There could be a better use of the site.

Commissioner Schumer stated that he is pleased to see the setback from Victoria and is not so concerned about the height. The positives outweigh the negatives, and he supports this project.

**MOTION:** by Commissioner Schumer, seconded by Commissioner Wenner to recommend the City Council approve the following requests submitted by Lakeview Terrace/Tycon Co. for the redevelopment of Midland Plaza, 3588 Owasso Street with a 104 unit apartment building. Said recommendation for approval is subject to the following conditions.

*Comprehensive Guide Plan Amendment*

1. The planned land use of the property changing the existing C, Commercial land use designation to RH, High Density Residential.
2. Review and approval of the amendment by the Metropolitan Council.
3. The amendment will not be effective until the City grants approval of the Final Plat and PUD - Final Stage requests and the development agreements are executed.

*Rezoning*

1. This approval rezones the property from C1, Retail Service and R3, Multi-Dwelling Residential to PUD, Planned Unit Development.
2. The underlying zoning district for this PUD is R3, Multi-Dwelling Residential
3. Rezoning is not effective until approvals are received for the Final Plat, PUD - Final Stage and development agreements executed.

*Preliminary Plat*

1. A public use dedication fee shall be submitted as required by ordinance prior to release of the final plat by the City.
2. The final plat shall include drainage and utility easements along the property lines. Drainage and utility easements along the roadways shall be 10' wide and along the side lot lines these easements shall be 5' wide and as required by the Public Works Director.
3. Private agreements shall be secured between the parcels in the subdivision and the adjoining Midland Terrace Apartment complex regarding joint driveway, parking and maintenance agreements. Said agreements shall be submitted to the City Attorney for review and approval prior to the City's release of the Final Plat.
4. The developer shall submit an application to vacate Owasso Street with the Final Plat application.
5. The Final Plat shall be submitted to the City for approval with the Final Stage PUD application.

*Planned Unit Development – Development Stage*

1. This approval permits the redevelopment of 3588 Owasso Street parcels with a 104 unit 6-story tall apartment building as depicted in the plans submitted as part of this application.

2. Private agreements shall be secured between the parcels in this PUD and the adjoining Midland Terrace Apartment Complex regarding joint driveway, parking and maintenance agreements. Said agreements shall be submitted to the City Attorney for review and approval prior to the City's review of the Final Stage PUD plans and Final Plat.
3. Access to the proposed development is prohibited from Victoria Street. Access to the site shall be provided via the driveways off of Owasso Street as indicated in the approved plans.
4. Revisions may be required to the tree preservation plan that addresses the replacement of trees along the existing Owasso Street. A revised plan, if required, shall be submitted with the Final Stage PUD and Final Plat applications. Replacement trees shall be planted in accordance with the City's Woodlands and Vegetation Ordinance.
5. Approval of the final grading, drainage, utility, and erosion control plans by the Public Works Director is required, prior to submittal to the City of applications for Final Plat and PUD – Final Stage. Final plans shall identify site construction limits and the treatment of work (i.e. driveways, parking areas, grading, etc.) at the periphery of these construction limits.
6. The proposed apartment housing structure shall be of a 6-story design as depicted on the plans submitted with this application. Said building shall include the architectural enhancements and high-quality building materials as identified. The structure shall not exceed the height, 78.5' as identified in this report and on the submitted plans.
7. Additional landscaping may be required along the south side of the building to soften the structure's appearance when viewed from the adjacent single-family residential neighborhood.
8. The applicant is required to enter into a Site Development Agreement and Erosion Control Agreement with the City. Said agreements shall be executed prior to the issuance of any permits for this project. The Development Agreement shall address:
  - a. Construction management and nuisances that may occur during the construction process, including parking for contractors. No parking is permitted on Victoria Street.
  - b. Best Management Practices for Water Quality improvement
  - c. Landscape maintenance
  - d. Maintenance of stormwater management facilities, including the filtration basins
9. This approval shall expire after two months if the Planned Unit Development - Final Stage application has not been submitted for City review and approval, as per Section 203.060 (C)(6).

This approval is based on the following findings:

- 1) The proposed redevelopment plan supports the policies stated in the Comprehensive Plan related to land use, housing and redevelopment.
- 2) The proposed redevelopment plan carries out the recommendations as set forth in the Housing Action Plan
- 3) The proposed redevelopment plan will not adversely impact the planned land use of the surrounding property.
- 4) The proposed deviations permit this site to be redeveloped with a use that expands life-cycle and affordable housing, including housing choice in the city. The plan also results in a public road improvement project that will improve traffic flow and safety.

- 5) Sustainable design features will be incorporated into the building and site design.
- 6) Certain conditions as detailed in the Development Ordinance exist.

VOTE:           Ayes - 5                           Nays - 1 (McCool)

## **MISCELLANEOUS**

### **City Council Meetings**

Commissioners McCool and Schumer will respectively attend the May 7, and May 21, 2012 City Council meetings.

### **Planning Commission Workshop**

The Planning Commission will meet in a workshop session immediately prior to the regular May 22, 2012 meeting, at 6:00 p.m.

### **Text Amendment - Temporary Signs**

Ms. Nordine reported that the proposed amendment is in response to the City Council requesting staff to review the ordinance on temporary signs. The main issues of enforcement relate to temporary signs and message center signs. Further, the amendment would streamline the review process for applicants. The maximum sign area would be increased for larger buildings, such as Target; increasing the number of times per year temporary signs can be used; and increasing the time of display for temporary signs from 7 to 14 days.

The need for a Comprehensive Sign Plan would be eliminated, if signs are in compliance with the City's development code. A Comprehensive Sign Plan would be required when there is deviation from the ordinance.

Chair Solomonson asked Commissioners for general comments in response to more leniency with temporary signs and use of message centers. He commended staff for incorporating previous Planning Commission feedback. In regard to using the message centers to alleviate the need for temporary signs, his concern would be that the message center is readable from the road.

Commissioner Proud stated that he strongly disagrees with broadening the use of message center signs. He has seen no evidence or statistics that would show that it would add value to the business community. They do detract from the aesthetics of the community. Further, he stated that there is no ability to measure the brightness of the message center signs. He would not want to liberalize their use without the ability to measure brightness and enforce code regulations. He would like to see this matter brought to a workshop discussion.

Commissioner Wenner noted that in the City there is a proliferation of banners and sign boards that are in violation of the current ordinance. There is an issue of enforcement of standards,



which is more important to him than type of signage. If there is going to be a change to the ordinance, there needs to be the ability for enforcement.

Chair Solomonson stated that he would favor added flexibility for use of message centers, which he believes look better than a variety of temporary signs and banners. He agreed that enforcement is also an issue. He asked what feedback has been given by the Economic Development Commission (EDC). Ms. Nordine responded that the EDC is in general in favor of more flexibility in temporary sign regulations and also with message centers. Businesses feel that competitive businesses in other communities have an edge in advertising. She added that the City permit process is cumbersome.

Commissioner McCool agreed that this is mostly an enforcement issue. He would like to see the ordinance stipulate specifically what is acceptable, but whether more flexibility or not, it needs to be balanced with enforcement. Ms. Nordine stated that enforcement does consist of sign sweeps. More often it is in response to complaints.

Chair Solomonson suggested a joint workshop with the Economic Development Commission and the City Council because he is not sure the Planning Commission has all the information on this issue.

## **ADJOURNMENT**

**MOTION:** by Commissioner Schumer, seconded by Commissioner Ferrington to adjourn the regular Planning Commission Meeting of April 24, 2012, at 10:12 p.m.

**VOTE:** Ayes - 7                      Nays - 0